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FM AMEMBASSY BANGKOK

TO RUEHC/SECSTATE WASHDC PRIORITY 2798

RUCPDOC/DEPT OF COMMERCE WASHINGTON DC PRIORITY

RUCNASE/ASEAN MEMBER COLLECTIVE

UNCLAS BANGKOK 001278

SIPDIS

SENSITIVE

SIPDIS

STATE FOR EB TPP/IPE RACHEL WALLACE

STATE PASS USTR FOR JENNIFER CHOE GROVES

STATE PASS USPTO

USDOC FOR ITA/MAC/OIPR JENNIFER BOGER

E.O. 12958: N/A

TAGS: ECON ETRD KIPR TH

SUBJECT: THAILAND DISAPPOINTED BUT NOT SURPRISED BY PRIORITY WATCH LIST DECISION

REF: State 43148

¶1. (SBU) Econ counselor, accompanied by USPTO Intellectual Property Attache, conveyed talking points in reftel to Department of Intellectual Property Dep. Director General Wiboonlasana Ruamraksa, informing her that Thailand will be placed on the Section 301 Priority Watch List again this year. At the April 25 meeting at the Ministry of Commerce, we noted that we recognize the many efforts the RTG is making to protect IPR, but that piracy continues to be rampant. We also made clear that the decision was based on a wide range of IPR issues; concern regarding Thai policy on compulsory licensing was only one factor of many. We asked that news of the decision be embargoed until it is announced in Washington, D.C., on the afternoon of April 25.

¶2. (SBU) DDG Wiboonlasana said she appreciated the heads-up, and would report the U.S. determination to Commerce Minister Mingkwan later in the day. She said she was disappointed, but not surprised, by the decision. She also said that it would be hard to explain the decision to the public given that other countries in the region have equally serious IPR problems, inferring that people would inevitably believe that Thailand is being singled out because of the CL policy. Econcouns and USPTO Rep responded that the determination was based on input from rights-holders, who had said that problems in Thailand were of a serious nature. Pharmaceutical interests had actually recommended that Thailand be named a PFC, but USTR followed the majority of industry that asked that Thailand remain on the PWL. No one recommended that Thailand be moved up to the Watch List.

¶3. (SBU) DDG Wiboonlasana said her Department had made extensive efforts over the past year to protect IPR. Her Director General has been working very hard, she said, especially in the area of enforcement, to show that the Thai Government takes the issue very seriously. The Director General was out of the office today because she was holding her second meeting with the Royal Thai Police on this issue. She said that while her Department provides training to the police on IPR, the police have many competing priorities, while DIP only has one. DDG Wiboonlasana noted that, while protection and enforcement are very important, DIP does equally important work in the area of IP promotion. She added that they believe public education is essential to changing ingrained attitudes toward IPR piracy.

¶4. (SBU) The DDG welcomed the U.S. desire to strengthen dialogue and cooperation, but requested that future DVCs have a more focused agenda so that her Department does not have to make long reiterations of information she said is already supplied to the U.S. side in monthly enforcement reports. IP Attache stressed the need to show that these efforts have had a deterrent effect. Many raids and arrests mean little if there is no prosecution and subsequent

serious sentencing.

¶15. (SBU) DDG Wiboonlasana claimed that Thailand only has "little fish" infringers who should not be jailed. IP Attache said that DIP could use its coordinating role more effectively if it were able to track cases from the point of the raid to sentencing, using resulting data to prove the effectiveness of the enforcement system.

IP Attache offered assistance in discussing possible roles for DIP to play in improving the quality of Thai data and helping rights owners to track raid results through the Thai legal system.